

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL DOCKET NO. 09-059

V.

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SECTION: “K” (3)

CARLOS ALBERTO CUERO

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a/k/a Carlos Alberto Cuero-Hernandez

a/k/a Carlos Cuero Hernandez

*

a/k/a Carlos A. Cuero

a/k/a Jose Acosta

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a/k/a Jhonson Betwell

a/k/a Johnson Betwell

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a/k/a Carlos Hernandez

a/k/a Carlos C. Hernandez

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a/k/a Francisco Moreno

a/k/a Carlos Alberto Hernandez

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a/k/a Carlos Medina

a/k/a Carlos Hernandez

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a/k/a Charles Walker

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FACTUAL BASIS

_____ Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the indictment now pending against the defendant:

The Defendant, **CARLOS ALBERTO CUERO** (hereinafter “**CUERO**”) has agreed to plead guilty as charged to the two-count superseding indictment charging him with being a stowaway on a vessel in violation of Title 18, United States Code, Section 2199 and illegal reentry of a removed alien in violation of Title 8, United States Code, Section 1326(a).

The Master of the M/V Warta would testify that on or about December 22, 2008, he piloted the M/V Warta from Puerto Cortez, Honduras to the General Anchorage in Arabi, Louisiana. While anchored in Arabi, Louisiana, in St. Bernard Parish in the Eastern District of Louisiana, after departure from Puerto Cortez, Honduras, the crew of the M/V Warta summoned a boat from Port Ship Services to transport the M/V Warta's agent and marine surveyor. The boat captain from Port Ship Services would testify that he encountered **CUERO** upon arriving at the M/V Warta. The defendant informed the boat captain from Port Ship Services that he needed to go ashore, and the defendant descended onto the Port Ship Services boat. Upon leaving the M/V Warta en route to shore, the Port Ship Services boat captain became suspicious of the defendant and returned to the M/V Warta. After the defendant was returned to the M/V Warta, that vessel's crew notified the captain of the defendant's presence. The captain of the M/V Warta then notified the vessel's agent, who alerted U.S. Customs and Border Protection (hereinafter "CBP") of the defendant's presence onboard the M/V Warta. CBP officers boarded the M/V Warta while the vessel was still anchored at Arabi, Louisiana. The CBP officers questioned the defendant, determined that he was **CUERO** and that he was onboard the vessel without the consent of the Master or any other person in command of the vessel.

A CBP Officer (hereinafter "Officer") would testify that upon questioning **CUERO** under oath after being read him his *Miranda* rights, the defendant stated that he was a citizen of Colombia and illegally in the United States. The Officer confirmed the defendant's status through the CBP

computer database.

The Officer would further testify that he determined that while the M/V Warta was docked in Honduras, **CUERO**, who worked on the docks in Puerto Cortez, boarded the M/V Warta and concealed himself in the lower portion of crane number two. **CUERO** hid aboard the vessel without assistance or permission from any of the vessel's crew. The defendant was aware that the vessel was en route to the United States. The Officer also determined that **CUERO** remained onboard the vessel from the time he boarded it in Honduras until it docked at General Anchorage in Arabi, Louisiana.

Documentation from the records of Immigration and Customs Enforcement contained in the defendant's Alien file, including the Warrant of Removal/Deportation, complete with the defendant's fingerprints, photographs and signature, would demonstrate that the defendant, **CUERO**, was removed from the United States to Colombia on or about February 18, 1998. A qualified Immigration and Customs Enforcement Fingerprint Specialist would testify that the fingerprints of the individual documented in the Immigration and Customs Enforcement Alien file containing the Warrant of Removal/Deportation and the fingerprints of the defendant are the same.

A Certificate of Non-Existence of Record would show that the defendant, **CUERO**, did not receive consent from the United States Attorney General or his designated successor, the Secretary of the Department of Homeland Security, to apply for readmission or receive permission to reenter the United States since the time of the defendant's previous removal.

Further documents, court records, and other admissible evidence would show that on or about January 11, 1995, in the Eleventh Judicial Circuit for Dade County, Florida, the defendant, **CUERO**, was convicted of lewd assault act.

ROBERT WEIR Special Assistant United States Attorney	Date
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CARLOS ALBERTO CUERO Defendant	Date
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ROMA KENT Attorney for Defendant	Date
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